

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN SENATE JULY 18, 2007

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1473

Introduced by Assembly Member Feuer

February 23, 2007

An act to add Sections 44002.1 and 44002.2 to the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1473, as amended, Feuer. Solid waste facility: permits: enforcement.

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, prohibits a person from operating a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to the act. The enforcement agency is required to immediately issue a cease and desist order ordering a solid waste facility that is operating without a permit to immediately cease operations and to direct the owner or operator of the facility to obtain a permit.

This bill would allow an enforcement agency to stay the enforcement of a cease and desist order if the solid waste facility only receives material that has been separated for reuse prior to receipt and meets other specified conditions with regard to the operation of the facility, including entering into a stipulated order with the enforcement agency.

The bill would require an enforcement agency that elects to stay the enforcement of such a cease and desist order to inspect the facility at least once each month.

The bill would require the board to conduct a study, by January 1, 2010 2009, of the environmental and public health impacts of solid waste facilities that accept only materials that are source separated for recycling and, based on the study, the board would be required to either revise the regulations adopted pursuant to the act with regard to the issuance of solid waste facilities permits for those facilities or determine that the existing regulations are appropriate with regard to those facilities.

The bill would make the provision authorizing the enforcement agency to stay the enforcement of an order inoperative on January 1, 2012. ~~If, However, if~~ before January 1, ~~2012 2011~~, the board adopts those regulations specified above, or determines not to revise the existing regulations, the board would be required to notify the Secretary of State ~~of this action and that the~~ authorization provision would become inoperative on the effective date of the adoption of the revised regulations or the date of ~~that the~~ determination *not to revise the regulations*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44002.1 is added to the Public Resources
2 Code, to read:
3 44002.1. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) "Putrescible waste" has the same meaning as defined in
6 paragraph (21) of subdivision (a) of Section 17402 of Title 14 of
7 the California Code of Regulations.
8 (2) "Residual" has the same meaning as defined in paragraph
9 (1) of subdivision (b) of Section 17402.5 of Title 14 of the
10 California Code of Regulations.
11 (b) (1) Notwithstanding subdivision (a) of Section 44002, the
12 enforcement agency may stay the enforcement of a cease and desist
13 order issued pursuant to subdivision (a) of Section 44002 if the
14 solid waste facility meets all of the following conditions:

1 (A) The facility only receives material that has been separated
2 for reuse prior to receipt.

3 (B) No more than 2 percent of the waste accepted is putrescible
4 waste.

5 (C) The enforcement agency determines the putrescible waste
6 separated for reuse does not cause a nuisance.

7 (D) Of the waste that remains after processing, the *average*
8 *monthly* residual level is not more than 20 percent.

9 (E) The owner or operator of the facility applies, on or before
10 ~~March 31, July 1, 2008~~, for a solid waste facilities permit, and is
11 actively engaged in good faith efforts, as determined by the
12 enforcement agency, to obtain a solid waste facilities permit in an
13 expeditious manner.

14 (F) An environmental impact report or negative declaration is
15 being, or has been, prepared for the facility pursuant to Division
16 13 (commencing with Section 21000).

17 (G) During the time that the facility is operating without a solid
18 waste facilities permit, the facility is otherwise operating in a
19 manner that is in compliance with this division and with any
20 conditions required for that compliance imposed by the
21 enforcement agency, including the payment of reasonable and
22 necessary fees for the inspection services and administrative costs
23 of the enforcement agency.

24 (H) The facility was in operation on or before January 1, 2007.

25 ~~(I) The facility is inspected at least monthly~~ *owner or operator*
26 *of the facility agrees to at least monthly inspections of the facility*
27 *by the enforcement agency.*

28 (2) A stay granted by the enforcement agency pursuant to
29 paragraph (1) shall be in effect for not longer than one year from
30 the date of issuance ~~and, but~~ may be extended by the enforcement
31 ~~agency for a period of time not to exceed one additional year, if~~
32 *agency for an additional one year, and may be extended again by*
33 *the enforcement agency for no more than six additional months,*
34 *if the enforcement agency determines that the operator or proposed*
35 *operator of the facility makes a continuing good faith effort to*
36 *obtain the solid waste facilities permit and otherwise remains in*
37 *compliance with this division and with any conditions required*
38 *for that compliance imposed by the enforcement agency.*

39 (3) The owner or operator of a facility subject to this section
40 shall, within 60 days after the date a cease or desist order is issued,

1 enter into a stipulated order with the enforcement agency that sets
2 forth interim operating conditions and a schedule for obtaining a
3 solid waste facilities permit, *consistent with this section*.

4 (c) If an enforcement agency elects to stay the enforcement of
5 a cease and desist order pursuant to subdivision (b), the
6 enforcement agency shall inspect the facility at least once each
7 month.

8 (d) (1) Except as provided in paragraph (2), this section shall
9 become inoperative on January 1, 2012.

10 (2) If the board, before January 1, ~~2012~~ 2011, adopts regulations
11 pursuant to subdivision (a) of Section 44002.2, or determines
12 pursuant to subdivision (b) of Section 44002.2 not to revise the
13 regulations, the board shall notify the Secretary of State of that
14 action. This section shall become inoperative on the effective date
15 of the adoption of the revised regulations or the date of the
16 determination not to revise the regulations.

17 SEC. 2. Section 44002.2 is added to the Public Resources Code,
18 to read:

19 44002.2. On or before January 1, ~~2010~~ 2009, the board shall
20 conduct a study of the environmental and public health impacts
21 of solid waste facilities that accept only materials that are source
22 separated for recycling. Based on the study conducted pursuant to
23 this section, the board shall take one of the following actions:

24 (a) Revise the regulations adopted pursuant to this division with
25 regard to the issuance of solid waste facilities permits to facilities
26 that accept only materials that are source separated for recycling.

27 (b) Determine not to revise the regulations, upon a finding that
28 the existing regulations adopted pursuant to this division are
29 appropriate with regard to the issuance of solid waste facilities
30 permits to facilities that accept only materials that are source
31 separated for recycling.